



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

JUN - 9 2011

Peter M. DeStefano, Treasurer  
Peter DeStefano for Congress  
P.O. Box 576  
Lumberton, NJ 08048

RE: MUR 6400  
Peter DeStefano for Congress and  
Peter M. DeStefano, in his official  
capacity as treasurer

Dear Mr. DeStefano:

On October 26, 2010, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to you at that time. On June 6, 2011, the Commission, on the basis of the information in the complaint, and information provided by you, voted to dismiss the allegations that Peter DeStefano for Congress and you, in your official capacity as treasurer, violated 2 U.S.C. §§ 432(e)(1), 434(a) and (b) and 441a(f). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact April J. Sanab, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Mark Allen  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**MUR 6400**

**RESPONDENT:** Peter DeStefano for Congress and  
Peter M. DeStefano, in his official capacity as treasurer

**I. GENERATION OF MATTER**

This matter was generated by a complaint filed with the Federal Election Commission by the New Jersey Republican State Committee. See 2 U.S.C. § 437g(a)(1).

**II. FACTUAL AND LEGAL ANALYSIS**

The complaint alleges that Adler for Congress and Richard Sexton, in his official capacity as treasurer ("Adler Committee"), the principal campaign committee of former Congressman John H. Adler, and the Camden County Democratic Committee ("CCDC"), a county political party committee registered with the New Jersey Election Law Enforcement Commission, made excessive in-kind contributions to Peter DeStefano for Congress ("DeStefano Committee"), the principal campaign committee of Peter DeStefano, which the DeStefano Committee failed to report. Mr. DeStefano, a candidate in the 2010 General Election for U.S. House of Representatives in the 3rd Congressional District of New Jersey, ran under the slogan "NJ Tea Party," and qualified for the ballot by filing a petition for direct nomination on June 8, 2010.<sup>1</sup> The complaint also alleges that DeStefano did not properly file a complete Statement of Organization and the DeStefano Committee has not filed any disclosure reports with the Commission.

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<sup>1</sup> Mr. DeStefano lost the 2010 General Election with 1% of the vote.

1           **A. The Contribution and Related Failure to Disclose Allegations**

2           Under the Federal Election Campaign Act of 1971, as amended ("the Act"), no person  
3 may make a contribution to a candidate and his authorized political committee with respect to  
4 any election for Federal office which, in the aggregate, exceeds \$2,400 during the 2010 election  
5 cycle, and no candidate or authorized political committee may knowingly accept such a  
6 contribution. 2 U.S.C. §§ 441a(n)(1) and (f). The Act defines "contribution" as the provision of  
7 something of value "for the purpose of influencing any election for Federal office," and includes  
8 the "payment by any person of compensation for the personal services of another person which  
9 are rendered to a political committee without charge for any purpose." 2 U.S.C. §§ 431(8)(A)(i)  
10 and (ii). *See also* 11 C.F.R. § 100.52(d). Treasurers of political committees are required to  
11 disclose all contributions. 2 U.S.C. § 434(b).

12           Based on two attached published reports, the complaint alleges that consultant Haddon  
13 Capital Ventures, LLC ("HCV"); its owner, Steve Ayscue; the Adler Committee's campaign  
14 manager, Geoff Mackler; and CCDC's employees, Bill Moen and Matt White, were each  
15 compensated by either the Adler Committee or CCDC to assist DeStefano's petition drive. As a  
16 result, according to the complaint, the Adler Committee and CCDC made contributions to the  
17 DeStefano campaign pursuant to 2 U.S.C. § 431(8)(A)(ii) that the DeStefano Committee  
18 accepted but did not report. According to one published report, Ayscue recruited a then  
19 unidentified man (later identified as DeStefano) to run as a third party candidate to draw votes  
20 from Adler's Republican opponent. *See Dems Picked Spoiler Candidate*,  
21 [www.CourierPostOnline.com](http://www.CourierPostOnline.com), October 8, 2010. The report also states that Ayscue recruited  
22 volunteers to collect petition signatures to place the third party candidate on the ballot. *Id.*

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1 While neither published report attached to the complaint mentions CCDC employees Bill  
2 Moen or Matt White, other published reports state that they participated in collecting signatures  
3 for DeStefano's ballot petition. See, e.g., *Candidate "Plant" Insult To Voters*, www.app.com,  
4 October 9, 2010. The Adler Committee and CCDC disclosed no contributions to the DeStefano  
5 Committee, and the DeStefano Committee did not disclose the receipt of any contributions from  
6 the Adler Committee or CCDC, or from any of the individuals allegedly working to support or  
7 assist DeStefano in ballot efforts.

8 DeStefano's one-page response, submitted on behalf of his campaign, states "I have not  
9 received assistance of any kind from Mr. Adler, nor any person who I know to be connected with  
10 Mr. Adler's campaign. Neither Mr. Ayscue nor Mr. Mackler, nor any other person connected  
11 with Mr. Adler's campaign have worked on my campaign, contributed money, or anything else,  
12 or in any way assisted my campaign." Ayscue's alleged involvement, according to the published  
13 reports, was in recruiting DeStefano to run and appearing at a meeting with Mackler, where both  
14 allegedly supported the idea of volunteers assisting with soliciting signatures for DeStefano's  
15 ballot petition. DeStefano is not alleged to have been at that meeting, and none of the available  
16 information contradicts his statements that he was not aware of any assistance from them with  
17 the pre-campaign petition effort. Thus, there is an insufficient basis to conclude that either  
18 DeStefano or his campaign committee, of which he was the treasurer, knowingly accepted  
19 contributions from these sources.

20 DeStefano does not address any assistance he may have received from the CCDC through  
21 the alleged involvement of CCDC employees Moen and White in collecting signatures for his  
22 ballot petition. If CCDC paid its employees to collect signatures for DeStefano's campaign,

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1 CCDC made expenditures within the meaning of 2 U.S.C. § 431(9)(A)(i). *See* Advisory Opinion  
2 1994-05 (White) (expenses incurred in gathering signatures to qualify for a ballot are  
3 expenditures); Advisory Opinion 2006-20 (Unity 08) (payments to obtain ballot access through  
4 petition drives are expenditures) (vacated on other grounds by *Unity08 v. F.E.C.*,  
5 596 F.3d 61 (D.C. Cir. 2010)); MUR 5581 (Nader for President 2004), Factual and Legal  
6 Analysis at 4 n.6 (amounts spent on obtaining signatures for candidate to appear on general  
7 election ballot are expenditures). If CCDC coordinated its activities with DeStefano, then these  
8 expenditures were in-kind contributions to his campaign and should have been reported by the  
9 DeStefano Committee. *See* MUR 5783 (Carl Romanelli for U.S. Senate) (payments made for  
10 ballot petitioning efforts that were coordinated with candidate constituted in-kind contributions).  
11 However, in view of the limited amount of any contributions, if any, it does not appear that an  
12 investigation would be a good use of the Commission's resources.

13 The complaint also alleges that Steve Ayscue operated DeStefano's website, Twitter  
14 account, and Facebook page. The second published report upon which the complaint relies,  
15 however, states only that an unidentified "county Democratic employee is running at least the  
16 Web elements of DeStefano's campaign." *See* Complaint, Exhibit 2. Even if Ayscue ran the  
17 DeStefano campaign's web activities, a review of the sites themselves suggests that any resulting  
18 in-kind contribution would be minimal. In view of the above, the Commission exercises its  
19 prosecutorial discretion and dismisses the allegations that Peter DeStefano for Congress and  
20 Peter DeStefano, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b) by  
21 knowingly accepting and failing to disclose an excessive contribution.

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**B. Allegations that the DeStefano Committee's Statement of Organization was Incomplete and that the Committee Failed to File Disclosure Reports**

Political committees must file a Statement of Organization with the Commission within 10 days of meeting the threshold definition found in 2 U.S.C. § 431(4)(C), and must file reports that comply with 2 U.S.C. § 434. 2 U.S.C. §§ 433(a), 434(a)(1). The complaint alleges that the DeStefano Committee has not properly filed a complete Statement of Organization with the Commission and has failed to file any disclosure reports. Complaint at 3 and Exhibits B and 9.

Following the complaint, the DeStefano Committee twice amended its Statement of Organization, which now appears complete.<sup>2</sup> Since the complaint, the DeStefano Committee also has filed two disclosure reports with the Commission. On October 27, 2010, it filed a report styled as a 2010 October Quarterly Report covering April 5 through October 18, 2010, disclosing total contributions of \$3,361 and total expenditures of \$3,286. Subsequently, on November 3, 2010, the DeStefano Committee filed a second report, covering April 5 through October 30, 2010, disclosing the same \$3,361 in contributions and \$3,286 in expenditures. *See* DeStefano Response attaching the 2010 October Quarterly Report. The reports show that \$2,386 came from DeStefano's own funds, and his response reiterates that fact and states that the remainder came from family and friends. *Id.* The reports and his response also show a debt of \$557 for printing; his response states he will probably pay the debt from his own funds. *Id.* While the DeStefano Committee has not yet filed a 2010 Post-General or Year-End Report, the available information

<sup>2</sup> The complaint based its allegation on a September 16, 2010 Request for Additional Information ("RFAI") sent to the DeStefano Committee because the original Statement of Organization filed August 30, 2010 did not include information about the candidate, any connected or affiliated committees, the treasurer and any designated agents, or a bank depository. The DeStefano Committee filed an amended Statement of Organization on October 25, 2010. A second RFAI followed on December 23, 2010, because the amended Statement of Organization filed October 25, 2010 was not signed by DeStefano in his official capacity as treasurer. DeStefano filed a signed Statement of Organization on January 19, 2011.

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1 does not suggest that the Committee engaged in substantial, if any, additional activity during  
2 these reporting periods.

3 Due to the DeStefano Committee's filing of amended Statements of Organization and  
4 disclosure reports, albeit untimely, and the low dollar amount of the DeStefano Committee's  
5 disclosed activity, pursuit of these registration and reporting allegations does not merit the  
6 further use of Commission resources. Therefore, the Commission exercises its prosecutorial  
7 discretion and dismisses the allegations that Peter DeStefano for Congress and Peter DeStefano,  
8 in his official capacity as treasurer, failed to properly file a complete Statement of Organization  
9 and file disclosure reports in violation of 2 U.S.C. §§ 432(e)(1) and 434(a), respectively.  
10 *See Heckler v. Chaney*, 470 U.S. 821 (1985).

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